



May 6, 2022

TO: State Association of County Retirement Systems
FROM: Edelstein Gilbert Robson & Smith, LLC
RE: **Legislative Update – May 2022**

General Update

The Legislature just passed a critical legislative milestone on April 29 – the policy committee deadline. The Legislature will now turn to the fiscal committee deadline, a point in the legislative process where we see a narrowing of the number of active bills continuing to advance. This is due to the Appropriations Suspense hearing, where the Senate and Assembly Appropriations Committees will hear and decide the fate of hundreds of bills at once in order to meet the May 20 deadline for bills in their first house.

After the fiscal committee deadline, each house will have until May 27 to pass bills off the floor and out of the house they were introduced in.

The Governor is expected to release his May Revision of the budget in mid-May. After this presentation, the budget process will ramp up and subcommittees will meet more frequently to review the Governor's proposed budget and each house's competing budget proposals. The Legislature must adopt a final budget by June 15.

SACRS Sponsored Bills

AB 1824 (Committee on Public Employment and Retirement) – Committee Cleanup Bill. The bill passed out of the Assembly Public Employment and Retirement Committee, the Assembly Appropriations Committee and off the Assembly Floor. The bill is now in the Senate.

AB 1971 (Cooper) – CERL Policy Bill. The Legislative Committee Co-Chairs and SACRS lobbying team held a series of discussions with various stakeholders including SEIU, the California Professional Firefighters, and the Police Officers Research Association of CA (PORAC) on the bill that led to the April 18 amendments.

The bill passed out of the Assembly Public Employment and Retirement Committee on April 20, and next will be taken up for a vote on the Assembly Floor before going to the Senate.

We will continue to keep SACRS updated as these two bills move through the legislative process.

Other Bills of Interest

SB 1328 (McGuire) – Divestment. This bill would prohibit public retirement boards from investing public employee retirement funds in a company with business operations in Russia or Belarus, among other requirements.

The bill passed out of the Senate Labor, Public Employment and Retirement Committee and Senate Governmental Organization Committee unanimously. It will be heard in Senate Appropriations Committee next.

SACRS submitted a letter of concern on this bill. It is attached to the report.

AB 2493 (Chen) – Disallowed Compensation. As initially amended, this bill would have allowed OCERS to adjust retirement payments based on disallowed compensation for peace officers and firefighters under certain circumstances. The bill was recently amended to apply to all CERL systems and passed out of policy committee in April. It will now be taken up for a vote on the Assembly Floor.

Public Meeting Bills. During the pandemic, public agencies have relied upon the Brown Act flexibilities created via Executive Order and previous legislation to continue to conduct business while keeping the public and members safe. As the pandemic evolves, public agencies continue to recognize the benefits of teleconferencing, and multiple bills have been introduced on the topic this year to continue teleconference flexibilities:

AB 1944 (Lee) – Public Meetings. This bill would allow legislative body members to use teleconferencing without identifying each teleconference location in the notice/agenda and without making each teleconference location accessible to the public.

SACRS is supporting this bill. The bill passed out of the Assembly Local Government Committee this week with the Chair of the Committee voting No. She argued that the bill gives too much flexibility to local boards by allowing members to participate remotely based on convenience rather than the need for accommodation. The bill will go to the Assembly Floor for a vote later this month.

AB 2449 (Rubio) – Public Meetings. This bill would allow a local agency to use teleconferencing for a public meeting if at least a quorum of members of the legislative body participate in person from a single location that is identified on the agenda and is open to the public within the local agency's jurisdiction, among other requirements.

Similar to AB 1944, the bill passed out of the Assembly Local Government Committee this week with the Chair voting No and expressing concerns about expanding Brown Act flexibilities too far. The bill will go to the Assembly Floor for a vote later this month.

Compensation Earnable Bills – Last session, two bills were introduced relating to compensation earnable - **AB 498 (Quirk-Silva)** and **AB 826 (Irwin)**. As reported in

previous updates, AB 826 was gutted and amended in June of 2021 with the CERL provisions currently contained in the bill. The bill was placed on the Senate Inactive File in September, where it remains. AB 498 (Quirk Silva) was similarly amended at the end of session last year in September. We have reached out to these offices to inquire about whether these bills will be further amended or brought up for votes later this year. Neither office had any updates at this time. We will periodically check back for further updates.



April 14, 2022

The Honorable Bill Dodd, Chair
Senate Governmental Organization Committee
State Capitol
Sacramento, CA 95814

RE: SB 1328 (as amended March 3, 2022)

Dear Chairman Dodd,

The State Association of County Retirement Systems (SACRS) is writing to express concern with SB 1328, specifically how it impacts the ability of County Employees Retirement Law (CERL) plans to administer their investment programs and ensure trust fund assets are expended solely for the purpose of paying benefits and reasonable administrative expenses. SACRS is not opposed to the humanitarian goals of the bill, however executing a divestment in accordance with the bill's provisions presents significant obstacles.

The 20 CERL plans are varied in size, plan member demographics, investment portfolios and assets, but the one thing they have in common is that they use external investment managers to invest trust fund assets. This is a cost-effective and efficient way to access institutional markets without the necessity of employing experts in active investing, and it satisfies the constitutional fiduciary duty to prudently manage the trust. This bill would require the plan to engage in a detailed analysis to identify prohibited holdings and hire a research firm to perform the same analysis, and then notify companies that were flagged and require certain actions. There are additional administrative steps to be followed, all of which require the expenditure of trust fund assets and personnel time in smaller, local retirement systems that do not have the capacity of corporate governance divisions in the bigger, statewide pension systems.

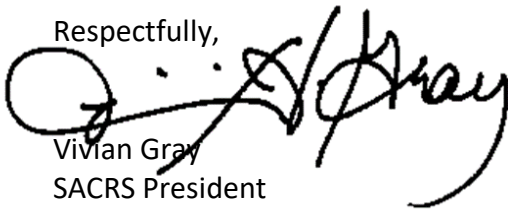
The reality is that the CERL plans collectively have minimal exposure to investments with direct ties to Russia and Belarus but the definition of "active business operations" is sufficiently broad to include any company that has a facility or any personnel in those countries. This would include companies like Amazon, McDonald's and other global enterprises. Divesting from every company with "active business operations" could mean significantly changing the investment mandates given to external investment managers which would override the plenary authority of the CERL Boards in making active investment management decisions.



The humanitarian crisis that is unfolding in Ukraine has already led to unprecedented sanctions on Russia's economy and financial assets tied to Russia. The speed of global reaction to the invasion has resulted in a "de facto divestment" that has rendered the de minimis assets the CERS plans had prior to the invasion worth even less or stranded, with uncertainty over how these positions can be unwound if and when Russian markets re-open.

Prior legislation on other divestment matters have focused on the influence and impact of the statewide retirement systems, inherently recognizing the scale and administrative constraints of local retirement systems. With SB 1328, SACRS requests the same discretion be extended to local retirement boards to determine the most appropriate course to navigate current Russian divestment efforts.

Respectfully,



Vivian Gray
SACRS President

cc: Senator Mike McGuire
Senator Dave Cortese
Consultant Senate Governmental Organization Committee